

Western Australia

Parental Support and Responsibility Act 2008

As at 15 Apr 2008

No. 14 of 2008

Extract from www.slp.wa.gov.au, see that website for further information

Parental Support and Responsibility Act 2008

CONTENTS

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
3.	Terms used in this Act	2
4.	Relationship of this Act to the performance of other functions	4
Part 2 — Objects and principles		
5.	Objects	5
6.	Principle that best interests of child paramount	5
7.	Principle of cooperation between government agencies	5
8.	Principle of cultural and religious sensitivity	6
9.	Principle of shared responsibility	6
Part 3 — Information sharing		
10.	Information sharing	7
Part 4 — Responsible parenting agreements		
11.	Responsible parenting agreements	9
12.	No liability for failing to comply with responsible parenting agreements	10
Part 5 — Responsible parenting orders		
Division 1 — Orders		
13.	Application for a responsible parenting order	11
14.	Court may make responsible parenting orders	11

Contents

15.	Court may make interim responsible parenting orders	12
16.	No order principle	13
17.	Assistance government agencies will provide	13
18.	Grounds for making a responsible parenting order	14
19.	Matters the Court must be satisfied of and take into account before making a responsible parenting order	15
20.	Duration of responsible parenting orders	17
21.	Complying with responsible parenting orders	17
	Division 2 — Review and appeal	
22.	Terms used in Division	18
23.	Variation or revocation of orders	18
24.	Review by President of certain decisions	19
25.	Appeals	19
	Division 3 — Procedural matters	
26.	Proceedings for or in respect of an order	20
27.	Parties to proceedings	20
28.	General conduct of proceedings for or in respect of an order	20
29.	Persons other than parties who may be heard	21
30.	Legal representation of child	21
31.	Presence of child in Court	22
32.	Court not bound by rules of evidence	22
33.	Evidence of children	23
34.	No awards for costs	23
	Part 6 — Miscellaneous	
35.	Authorised officers	24
36.	Modified operation of the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>	24
37.	Confidentiality of information	25
38.	Restriction on publication of certain information or material	26
39.	Evaluation of operations under the Act	27
40.	Annual review of operations under the Act	28
41.	Review of Act	29
42.	Regulations	29

Part 7 — Consequential amendments

Division 1 — Amendment of the *Children's Court of Western Australia Act 1988*

43. *Children's Court of Western Australia Act 1988* amended 30
24. Criminal jurisdiction as regards adults 30

Division 2 — Amendment of the *Young Offenders Act 1994*

44. *Young Offenders Act 1994* amended 32

Defined Terms

Western Australia

Parental Support and Responsibility Act 2008

No. 14 of 2008

An Act to provide for responsible parenting agreements and responsible parenting orders, to make consequential amendments to the *Children's Court of Western Australia Act 1988* and the *Young Offenders Act 1994*, and for related purposes.

[Assented to 15 April 2008]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Parental Support and Responsibility Act 2008*.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

3. Terms used in this Act

In this Act, unless the contrary intention appears —

“**authorised officer**” means an officer designated as an authorised officer under section 35 for the purposes of the provision in which the term is used;

“**CEO (Child Protection)**” means the chief executive officer of the department principally assisting in the administration of the *Children and Community Services Act 2004*;

“**CEO (Education)**” means the chief executive officer of the department principally assisting in the administration of the *School Education Act 1999*;

“**CEO (Corrective Services)**” means the chief executive officer of the department principally assisting in the administration of the *Young Offenders Act 1994*;

“**child**” means a person who is under 15 years of age;

“**Court**” means the Children’s Court;

“**department**” means a department of the Public Service;

“**government agency**” means —

- (a) a department;
- (b) a State agency or instrumentality; or

- (c) a body (whether incorporated or not) or the holder of an office, post or position, established or continued by or under a written law for a public purpose;

“income support” means financial assistance provided under a law of the State or the Commonwealth;

“information sharing agency” means —

- (a) the department principally assisting in the administration of this Act;
- (b) the department principally assisting in the administration of the *Children and Community Services Act 2004*;
- (c) the Disability Services Commission continued under section 6 of the *Disability Services Act 1993*;
- (d) the department principally assisting in the administration of the *Health Act 1911*;
- (e) the department principally assisting in the administration of the *Housing Act 1980*;
- (f) The State Housing Commission continued by section 6 of the *Housing Act 1980*;
- (g) the department principally assisting in the administration of the *Police Act 1892*;
- (h) the department principally assisting in the administration of the *School Education Act 1999*;
- (i) the department principally assisting in the administration of the *Young Offenders Act 1994*;
- (j) the Police Force;
- (k) a government agency prescribed in the regulations for the purposes of this definition;

“interim responsible parenting order” means an interim responsible parenting order made under section 15;

“officer”, in relation to an information sharing agency, means —

s. 4

- (a) an officer or employee in or of the agency; or
- (b) if the agency is the Police Force — a member of the Police Force;

“parent”, in relation to a child, means a person who at law has responsibility for —

- (a) the long-term care, welfare and development of the child; or
- (b) the day-to-day care, welfare and development of the child;

“relevant information” means information relevant to the purposes of this Act;

“responsible parenting agreement” means an agreement described in section 11;

“responsible parenting order” means an order made under section 14;

“school” has the meaning given to that term in section 4 of the *School Education Act 1999*.

4. Relationship of this Act to the performance of other functions

Nothing in this Act is to be taken to limit any functions of a person, government agency or court that may be performed apart from this Act.

Part 2 — Objects and principles

5. Objects

- (1) The objects of this Act are —
 - (a) to acknowledge and support the primary role of parents in safeguarding and promoting the wellbeing of children; and
 - (b) to support and reinforce the role and responsibility of parents to exercise appropriate control over the behaviour of their children.
- (2) For the purposes of this section, “**responsibility**” includes but is not limited to all the duties, powers, responsibilities and authority which, by law, parents have in relation to children.

6. Principle that best interests of child paramount

In performing a function or exercising a power under this Act in relation to a child, a person or a court must regard the best interests of the child as the paramount consideration.

7. Principle of cooperation between government agencies

In sharing information, and in providing assistance to parents and children, government agencies must work together cooperatively and effectively so as to give parents the best chance of —

- (a) safeguarding and promoting the wellbeing of their children;
- (b) exercising appropriate control over the behaviour of their children; and
- (c) complying with any responsible parenting agreement they may enter into or any responsible parenting order directed towards them.

8. Principle of cultural and religious sensitivity

In performing a function or exercising a power under this Act in relation to a family, a person or a court must endeavour to do so in a way that is culturally and religiously appropriate for the family.

9. Principle of shared responsibility

In performing a function or exercising a power under this Act in relation to a child, a person or a court must have regard to the shared responsibility that parents, family and the community have for the wellbeing of the child.

Part 3 — Information sharing

10. Information sharing

- (1) An officer of an information sharing agency may, in accordance with the guidelines, disclose relevant information to —
 - (a) another officer of the agency; or
 - (b) an officer of another information sharing agency; or
 - (c) a prescribed agency of the Commonwealth.
- (2) An authorised officer may, in accordance with the guidelines, request a government agency or a service agency which or who holds relevant information to disclose the information to the authorised officer.
- (3) Information may be disclosed under subsection (1), or in compliance with a request under subsection (2), despite any law of the State relating to secrecy or confidentiality.
- (4) If information is disclosed, in good faith, under subsection (1) or in compliance with a request under subsection (2) —
 - (a) no civil or criminal liability is incurred in respect of the disclosure;
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.
- (5) The chief executive officer of the department principally assisting in the administration of this Act must issue guidelines as to the disclosure of information under subsection (1) and the requesting of information under subsection (2).
- (6) The *Interpretation Act 1984* sections 41, 42, 43 and 44 apply to the guidelines as if the guidelines were regulations.

s. 10

- (7) Without limiting section 42, the regulations may include provisions about —
- (a) receiving and storing information disclosed for the purposes of this Act; and
 - (b) restricting access to such information.
- (8) In this section —
- “guidelines”** means guidelines issued under subsection (5);
- “service agency”** means a person or body that has provided counselling or courses to a parent under a responsible parenting agreement or responsible parenting order.

Part 4 — Responsible parenting agreements

11. Responsible parenting agreements

- (1) An authorised officer may enter into a responsible parenting agreement with a parent in respect of a child of the parent.
- (2) A responsible parenting agreement is an agreement about one or more of the following —
 - (a) the parent attending parenting guidance counselling, a parenting support group or any other relevant personal development course or group;
 - (b) the parent ensuring or taking all reasonable steps to ensure that the child attends school;
 - (c) the parent ensuring or taking all reasonable steps to ensure that the child avoids contact with a particular person or particular persons;
 - (d) the parent ensuring or taking all reasonable steps to ensure that the child avoids a particular place or particular places;
 - (e) other matters relating to the effective parenting of the child;
 - (f) the assistance to be given to the parent or child by a government agency to help the parent to comply with the agreement.
- (3) The parents of a child may together enter into a responsible parenting agreement in respect of the child and a responsible parenting agreement may be in respect of more than one child of the parent or parents.
- (4) A responsible parenting agreement must —
 - (a) be in writing;
 - (b) specify the period covered by it; and
 - (c) be signed by the parent or parents and the authorised officer.

s. 12

- (5) A responsible parenting agreement does not create obligations that are enforceable.

12. No liability for failing to comply with responsible parenting agreements

- (1) An action in tort does not lie against the State, a Minister, a government agency or an official for any failure of a person to comply with a responsible parenting agreement.
- (2) In this section —
“**Minister**” means a Minister of State for the State;
“**official**” means an officer or employee in or of a government agency.

Part 5 — Responsible parenting orders

Division 1 — Orders

13. Application for a responsible parenting order

- (1) An application for a responsible parenting order may be made by the CEO (Child Protection), the CEO (Education) or the CEO (Corrective Services) but no other person.
- (2) When an application is lodged, the Court must fix the day, time and place for the Court to first deal with the application.
- (3) As soon as practicable after lodging an application, the applicant must give a copy of it to —
 - (a) the parent to whom the order will be directed; and
 - (b) any other person considered by the applicant to have a direct and significant interest in the wellbeing of the child.
- (4) Each copy of an application given under subsection (3) must be accompanied by notice of the first listing date.

14. Court may make responsible parenting orders

- (1) The Court may, on application, make a responsible parenting order directed towards a parent in respect of a child of the parent.
- (2) A responsible parenting order is an order that requires the parent to do one or more of the following —
 - (a) attend parenting guidance counselling, a parenting support group, or any other relevant personal development course or group;
 - (b) take all reasonable steps to ensure that the child attends school;
 - (c) take all reasonable steps to ensure that the child avoids contact with a specified person or specified persons;

- (d) take all reasonable steps to ensure that the child avoids a specified place or specified places;
 - (e) comply with any other requirements set out in the order relating to the effective parenting of the child.
- (3) A parent may be required under subsection (2)(a) to attend residential counselling or a residential course if the Court is satisfied that residential counselling or a residential course is likely to be more effective than non-residential counselling or a non-residential course and that any disruption to the family of the child is justifiable in the circumstances.
- (4) The Court may make the order sought in the application for the order or make a different order.
- (5) The Court cannot make an order after the fifth anniversary of the day on which this section came into operation and an order in force on or after that anniversary ceases to have effect at the end of the 6 months immediately following that anniversary, if it does not otherwise cease before that time.

15. Court may make interim responsible parenting orders

- (1) The Court may, on application, in the course of proceedings for a responsible parenting order make an interim responsible parenting order.
- (2) An interim responsible parenting order is an order that requires the parent to do one or more of the following —
- (a) take all reasonable steps to ensure that the child attends school;
 - (b) take all reasonable steps to ensure that the child avoids contact with a specified person or specified persons;
 - (c) take all reasonable steps to ensure that the child avoids a specified place or specified places.
- (3) The Court must not make an interim responsible parenting order unless satisfied that the parent has received notice of the application for the interim order.

- (4) An interim responsible parenting order —
- (a) commences on the day on which it is served on the parent and, subject to subsection (5), remains in force for the period specified in it;
 - (b) may, with the leave of the Court, be made in the absence of the parent or without hearing the parent; and
 - (c) may be revoked, on application by a party to the proceedings or on the Court's own initiative.
- (5) An interim responsible parenting order ceases to be in force before the end of the period specified in it if, during that period —
- (a) the child reaches 15 years of age;
 - (b) the child becomes the subject of a protection order under the *Children and Community Services Act 2004*; or
 - (c) the order is revoked.
- (6) The Court may make the interim responsible parenting order sought in the application for the order or make a different order.

16. No order principle

The Court must not make a responsible parenting order or an interim responsible parenting order in respect of a child unless satisfied that making the order would be better for the child than making no order at all.

17. Assistance government agencies will provide

- (1) An application for a responsible parenting order or an interim responsible parenting order must be accompanied by a statement setting out —
- (a) whether the necessary facilities, counselling, groups or courses will be available for the parent to comply with the order; and

- (b) what assistance the relevant government agency or agencies will provide to assist the parent to comply with the order.
- (2) If the Court makes a responsible parenting order or an interim responsible parenting order, the CEO must give a copy of the statement to the parent, amended as necessary if the matters set out in the original statement change during the course of the proceedings for the order.

18. Grounds for making a responsible parenting order

The Court must not make a responsible parenting order unless satisfied that —

- (a) the child has been found guilty of an offence;
- (b) a matter, in respect of an offence allegedly committed by the child, has been referred to a juvenile justice team under the *Young Offenders Act 1994*;
- (c) the child is engaging in, or has engaged in, behaviour likely —
 - (i) to cause harm to the child or any other person;
 - (ii) to harass or intimidate other persons (other than those of the child's household); or
 - (iii) to cause damage to property,and that behaviour is part of a pattern of behaviour or is, of itself, of a kind that is sufficiently serious to justify the Court making an order;
- (d) a School Attendance Panel has recommended, under section 40 of the *School Education Act 1999*, that an application for a responsible parenting order be made in respect of the child; or
- (e) a School Discipline Advisory Panel or a Disability Advisory Panel has recommended, under section 92(3) of the *School Education Act 1999*, that an application for a responsible parenting order be made in respect of the child.

19. Matters the Court must be satisfied of and take into account before making a responsible parenting order

- (1) The Court must not make a responsible parenting order unless satisfied that —
- (a) making the order is in the best interests of the child;
 - (b) the parent has refused to enter into a responsible parenting agreement in respect of the child or the parent has not made a reasonable attempt to comply with a responsible parenting agreement in respect of the child;
 - (c) no protection order under the *Children and Community Services Act 2004* is in force in respect of the child;
 - (d) no protection proceedings under the *Children and Community Services Act 2004* are pending in respect of the child;
 - (e) the parent understands —
 - (i) the effect of the proposed order and the requirements under it;
 - (ii) the consequences that may follow if the parent does not comply with the order; and
 - (iii) that the Court may vary or revoke the order on the application of a party to the proceedings in which the order was made;
- and
- (f) making the order is desirable in the interests of —
 - (i) preventing the child repeating the behaviour that gave rise to the application for the order;
 - (ii) preventing the child committing an offence; or
 - (iii) ensuring the child attends school.
- (2) In deciding whether to make a responsible parenting order and the content of it, the Court must take into account —
- (a) the circumstances of the child's family and the likely effect on those circumstances of making the proposed order;

- (b) if relevant — the income of the child’s family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth;
- (c) whether or not the behaviour of the child that gave rise to the application for the order is the result of a disability or a mental, medical or psychological condition of the child or of a parent of the child;
- (d) the extent to which the parent has made efforts to manage the behaviour of the child;
- (e) whether or not the parent has unreasonably refused to enter into a responsible parenting agreement in respect of the child;
- (f) the extent to which the parent has attempted to comply with a responsible parenting agreement in respect of the child;
- (g) whether or not the relevant government agency has or agencies have made reasonable efforts to assist and encourage the parent —
 - (i) to manage the behaviour of the child; and
 - (ii) to improve his or her parenting skills;
- (h) the extent to which the relevant government agency has or agencies have given the assistance provided for in any relevant responsible parenting agreement;
- (i) whether the necessary facilities, counselling, groups or courses will be available for the parent to comply with the order; and
- (j) what assistance the relevant government agency or agencies will provide to assist the parent to comply with the order.

20. Duration of responsible parenting orders

- (1) A responsible parenting order comes into operation on the day on which it is served upon the parent and remains in force for the period specified in it, which period must not extend beyond 12 months after the day on which the order was made.
- (2) The order ceases to be in force if, during the period specified in it —
 - (a) the child reaches 15 years of age;
 - (b) the child becomes the subject of a protection order under the *Children and Community Services Act 2004*; or
 - (c) the order is revoked.

21. Complying with responsible parenting orders

- (1) If a parent to whom a responsible parenting order or an interim responsible parenting order is directed fails to make reasonable efforts to comply with the order the parent commits an offence. Penalty: \$200.
- (2) A prosecution for an offence under subsection (1) cannot be commenced without the approval of the CEO who applied for the order.
- (3) The CEO cannot give approval under subsection (2) unless the CEO —
 - (a) is satisfied that all reasonable efforts to assist and encourage the parent to comply with the order have failed; and
 - (b) has taken into account the income of the child's family, the extent to which that income is derived from income support and any restrictions on the use, or reduction or suspension, of that income under a law of the State or the Commonwealth.
- (4) The CEO cannot give approval under subsection (2) more than 6 months after the expiry of the order.

- (5) When sentencing a person who has been convicted of an offence under subsection (1) the Court may, if the order is still in force —
- (a) confirm the order;
 - (b) vary the order; or
 - (c) revoke the order.
- (6) The Court is to hear and determine charges alleging an offence under section 131(1) of the *Sentencing Act 1995* constituted by the breach of a conditional release order or a community based order imposed by the Court when sentencing a person who has been convicted of an offence under subsection (1) of this section.

Division 2 — Review and appeal

22. Terms used in Division

In this Division —

“decision” means a decision —

- (a) to make or refuse to make a responsible parenting order;
- (b) to confirm or revoke a responsible parenting order; or
- (c) to vary a responsible parenting order;

“Judge” has the meaning given to that term in section 3(1) of the *Children’s Court of Western Australia Act 1988*;

“party to the initial proceedings”, in relation to a responsible parenting order, means a person who was a party to the proceedings in which the order was made.

23. Variation or revocation of orders

- (1) A party to the initial proceedings for a responsible parenting order may apply to the Court for the order to be varied or revoked.

- (2) The Court may —
- (a) confirm the order;
 - (b) vary the order in accordance with the application or vary the order in another way; or
 - (c) revoke the order,

if the Court is satisfied that there are sufficient grounds for doing so and that it is in the best interests of the child to do so.

- (3) Without limiting subsection (2), sufficient grounds include the ground that complying with the order would be unreasonable or not in the best interests of the child, whether or not the circumstances of the parent or child have changed.

24. Review by President of certain decisions

- (1) Where the Court, when constituted so as not to consist of or include a Judge, makes a decision, the Court when constituted by the President may, on application or on its own initiative, reconsider the decision and confirm, vary or revoke the decision or revoke the decision and substitute another decision.
- (2) An application under subsection (1) —
- (a) may be made by a party to the initial proceedings for the responsible parenting order; but
 - (b) cannot be made later than 21 days after the date of the decision unless the President orders otherwise.

25. Appeals

- (1) Where the Court, when constituted by or so as to include a Judge, makes a decision, an appeal may be made to the Court of Appeal against the decision.
- (2) An appeal under subsection (1) may be made by a party to the initial proceedings for the responsible parenting order.
- (3) An appeal under subsection (1) must be commenced and conducted in accordance with the rules of court.

- (4) An appeal under subsection (1) cannot be commenced later than 21 days after the date of the decision unless the Court of Appeal orders otherwise.
- (5) The leave of the Court of Appeal is required for each ground of appeal in an appeal under subsection (1).
- (6) In an appeal under subsection (1), the Court of Appeal —
 - (a) may confirm, vary or set aside the Judge’s decision;
 - (b) may make any decision that the Judge could have made; and
 - (c) if it sets aside the Judge’s decision, may order the matter concerned be dealt with again.

Division 3 — Procedural matters

26. Proceedings for or in respect of an order

In this Division —

“proceedings for or in respect of an order” means proceedings for the making of an order under section 14 or 15, the variation or revocation of an order under section 15 or 23 or the reconsideration of an order under section 24.

27. Parties to proceedings

In proceedings for an order the parent to whom the order is to be directed and the CEO making the application are parties to the proceedings.

28. General conduct of proceedings for or in respect of an order

- (1) Proceedings for or in respect of an order are to be conducted with as little formality and legal technicality as the circumstances of the case permit.

- (2) Without limiting subsection (1), if the child is present in Court, the proceedings are to be conducted in a way that is sensitive to the child's level of understanding.
- (3) The proceedings are to be concluded as expeditiously as possible in order to minimise the effect of the proceedings on the child and the child's family.

29. Persons other than parties who may be heard

- (1) The Court may, on application or on its own initiative, receive as evidence a report setting out the child's responses to questions put to the child on behalf of the Court by a person appointed by the Court for that purpose.
- (2) The Court may, on application or on its own initiative, hear the child in person if satisfied as to the matters set out in section 33(2).
- (3) The Court may, on application or on its own initiative, hear any other person considered by the Court to have a direct and significant interest in the wellbeing of the child.

30. Legal representation of child

- (1) If, in proceedings for or in respect of an order, it appears to the Court that it would be in the interests of the child to be separately represented by a lawyer, the Court may, on application or on its own initiative, order that the child be separately represented by a lawyer.
- (2) The lawyer must act on the instructions of the child if the child —
 - (a) has sufficient maturity and understanding to give instructions; and
 - (b) wishes to give instructions,and in any other case must act in the best interests of the child.

- (3) Any question as to whether a child has sufficient maturity and understanding to give instructions is to be determined by the Court.
- (4) In this section —
“**lawyer**” means a legal practitioner as defined in section 3 of the *Legal Practice Act 2003*.

31. Presence of child in Court

- (1) In proceedings for or in respect of an order the child may be present in Court if the child so wishes.
- (2) Subsection (1) is subject to any order made in respect of the child under section 31 of the *Children’s Court of Western Australia Act 1988*.
- (3) The CEO who applied for the order must ensure that the child —
 - (a) is made aware of the child’s right to be present in Court under subsection (1); and
 - (b) is provided with any support services that the CEO considers appropriate to enable the child to be present in Court and participate in the proceedings.

32. Court not bound by rules of evidence

- (1) In proceedings for or in respect of an order the Court is not bound by the rules of evidence, but may inform itself on any matter in any manner it considers appropriate.
- (2) Without limiting subsection (1), evidence of a representation about a matter that is relevant to the proceedings is admissible despite the rule against hearsay.
- (3) The Court may give such weight as it thinks fit to evidence admitted under subsection (2).

(4) In this section —

“representation” includes an express or implied representation, whether oral or in writing, and a representation inferred from conduct.

33. Evidence of children

- (1) In proceedings for or in respect of an order a child may only be compelled to give evidence or be cross-examined with the leave of the Court, which may be withdrawn at any time.
- (2) The Court must not grant leave unless the Court is satisfied that the child is unlikely —
 - (a) to suffer emotional trauma as a result of giving evidence or being cross-examined; or
 - (b) to be so intimidated or distressed as to be unable —
 - (i) to give evidence or be cross-examined; or
 - (ii) to give evidence or be cross-examined satisfactorily.

34. No awards for costs

The Court cannot make an order for the payment of any costs of proceedings for or in respect of an order.

Part 6 — Miscellaneous

35. Authorised officers

The CEO (Child Protection), the CEO (Education), the CEO (Corrective Services) or the chief executive officer of the department principally assisting in the administration of this Act may designate a public service officer of his or her department as an authorised officer for the purposes of the provision or provisions of this Act specified in the designation.

36. Modified operation of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*

- (1) The *Fines, Penalties and Infringement Notices Enforcement Act 1994* applies, as modified by this section, to and in relation to a fine imposed on a person for an offence against section 21(1).
- (2) A notice of intention to suspend licences under section 42 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* cannot be issued to the person.
- (3) A licence suspension order under section 43 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* cannot be made in respect of the person.
- (4) A warrant of execution under section 45 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* cannot be issued in respect of the person.
- (5) Section 47A of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* applies as if all of subsection (1) from and including “if the Registrar is satisfied” were deleted.
- (6) A warrant of commitment under section 53 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* cannot be issued in respect of the person.

37. Confidentiality of information

- (1) A person who is or has been engaged in the performance of functions under this Act must not, directly or indirectly, record, disclose or make use of information obtained in the course of duty, except —
- (a) for the purpose of, or in connection with, performing functions under this Act;
 - (b) for the purpose of the investigation of any suspected offence under this Act or the conduct of proceedings against any person for an offence under this Act;
 - (c) for the purposes of proceedings for or in respect of an order (as defined in section 26);
 - (d) as required or allowed under this Act or another written law;
 - (e) with the written consent of the Minister or the person to whom the information relates; or
 - (f) in prescribed circumstances.

Penalty: \$12 000 and imprisonment for one year.

- (2) Subsection (1) is not to be taken to prevent the disclosure of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) If information is lawfully disclosed under this section, this section does not prevent the further disclosure of the information, or the recording or use of the information, for the purpose for which the disclosure was made.

38. Restriction on publication of certain information or material

- (1) A person must not, except in accordance with a written authorisation given under this section, publish information or material that identifies, or is likely to lead to the identification of, another person (the “**identified person**”) as —
- (a) a person who is or was a parent who entered into a responsible parenting agreement;
 - (b) a person who is or was a child in respect of whom a responsible parenting agreement was entered into;
 - (c) a person who is or was a parent to whom a responsible parenting order is or was directed or in respect of whom an application for such an order has been made;
 - (d) a person who is or was a child in respect of whom a responsible parenting order was made or an application for such an order has been made; or
 - (e) a person who the parent of a child is to ensure, or take all reasonable steps to ensure, the child avoids contacting, under a responsible parenting agreement, interim responsible parenting order or responsible parenting order.

Penalty: \$12 000 and imprisonment for one year.

- (2) If the identified person is under 18 years of age, written authorisation for the publication of information or material to which subsection (1) applies may be given by both the CEO and a parent of the identified person.
- (3) If the identified person has reached 18 years of age, written authorisation for the publication of information or material to which subsection (1) applies may be given —
- (a) by the identified person; or
 - (b) if the identified person is dead or cannot be found after reasonable inquiries, by the CEO.

- (4) Subsection (1) does not apply to information or material contained in a report of proceedings to which section 35(1) of the *Children's Court of Western Australia Act 1988* applies.
- (5) In this section —
 - “**CEO**” means the CEO of the department of which the authorised officer who entered into the agreement is a public service officer;
 - “**publish**” means to bring to the notice of the public or a section of the public by means of newspaper, television, radio, the internet or any other form of communication.

39. Evaluation of operations under the Act

- (1) The CEO may appoint a person or body to evaluate the operations carried out under this Act and to report to the CEO on them as often as is required by the CEO.
- (2) The CEO must give a copy of each report to the Minister and may publish each report (to the extent to which it does not reveal the identity of the individuals to whom it relates).
- (3) For the purposes of this section, an authorised officer, or an officer of an information sharing agency who is authorised under subsection (4), may, in accordance with the guidelines, disclose relevant information to a person or body appointed under subsection (1) other than information in a form that would reveal the identity of the individuals to whom it relates.
- (4) An officer of an information sharing agency may be authorised for the purposes of this section by the chief executive officer or chief employee of the officer's information sharing agency.
- (5) If information is disclosed in good faith under subsection (3) —
 - (a) no civil or criminal liability is incurred in respect of the disclosure;
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and

- (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.
- (6) The CEO must issue guidelines as to the disclosure of information under subsection (3).
- (7) In this section —
 - “**CEO**” means the chief executive officer of the department principally assisting in the administration of this Act;
 - “**chief employee**” has the meaning given to that term in section 3(1) of the *Public Sector Management Act 1994*;
 - “**guidelines**” means guidelines issued under subsection (6).

40. Annual review of operations under the Act

- (1) The annual report on the Department prepared under the *Financial Administration and Audit Act 1985* is to include a report on the operations carried out under this Act during the financial year to which the annual report relates.
- (2) Without limiting the *Financial Administration and Audit Act 1985*, the report must —
 - (a) cover all of the operations carried out under this Act, whether or not carried out by an officer of the Department; and
 - (b) include an assessment of the extent to which the operations have met the objects of this Act and complied with the principles set out in it.
- (3) The report is to be reviewed by a person or body appointed by the Minister for the purposes of this subsection (being a person who or body which is not connected with the administration of this Act) and the person’s or body’s findings and recommendations (if any) are to be included in the annual report.

- (4) In this section —
“**Department**” means the department principally assisting in the administration of this Act.

41. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after —
- (a) the fifth anniversary of its commencement; and
 - (b) the expiry of each 5 yearly interval after that anniversary.
- (2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared (and in any event not more than 12 months after the relevant anniversary), cause it to be laid before each House of Parliament.

42. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

Part 7 — Consequential amendments

Division 1 — Amendment of the *Children's Court of Western Australia Act 1988*

43. *Children's Court of Western Australia Act 1988* amended

- (1) The amendments in this section are to the *Children's Court of Western Australia Act 1988**.

[* *Reprint3 as at 10 September 2004.*

For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 63.]

- (2) Section 20 is amended as follows:

- (a) after paragraph (c) by deleting “and”;
- (b) after paragraph (d) by deleting the full stop and inserting instead —

“

; and

- (e) under section 14 or 15 of the *Parental Support and Responsibility Act 2008*.

”.

- (3) After section 23 the following section is inserted —

“

24. Criminal jurisdiction as regards adults

- (1) The Court has exclusive jurisdiction to hear and determine —
- (a) a charge alleging an offence under section 21(1) of the *Parental Support and Responsibility Act 2008*; and

- (b) a charge alleging an offence under section 131(1) of the *Sentencing Act 1995* constituted by the breach of a conditional release order or a community based order imposed by the Court when sentencing a person who has been convicted of an offence under section 21(1) of the *Parental Support and Responsibility Act 2008*.
- (2) This section applies if section 19 does not apply. ”.
- (4) After section 36(1)(a) the following paragraph is inserted —
“
(ab) a responsible parenting order or an interim responsible parenting order is made in respect of a child under the *Parental Support and Responsibility Act 2008*; or
”.
- (5) Section 40 is amended as follows:
- (a) in subsection (1) by deleting “child” in both places where it occurs and inserting instead —
“ person ”;
- (b) in subsection (2)(a) by deleting “child” and inserting instead —
“ person ”;
- (c) in subsection (2)(b) by inserting before “by the CEO” —
“ if the person is a child, ”.

Division 2 — Amendment of the *Young Offenders Act 1994*

44. *Young Offenders Act 1994* amended

- (1) The amendment in this section is to the *Young Offenders Act 1994**.

[* Reprinted 8 December 2000.

For subsequent amendments see Western Australian Legislation Information Tables for 2004, Table 1, p. 511.]

- (2) After section 15A(3) the following subsections are inserted —

“

- (3a) Upon being requested to do so by an authorised officer, the chief executive officer is to provide —

- (a) the officer with information relating to a child who is, or was, a young offender or detainee, for the purposes of proceedings for or in respect of a responsible parenting order in respect of the child; or
- (b) an appointed person or body with information relating to a person who is, or was, a young offender or detainee, for the purposes of section 39 of that Act.

- (3b) The information provided under subsection (3a)(b) must be in a form that would not reveal the identity of the person.

- (3c) In subsection (3a) —

“**appointed person or body**” means a person or body appointed under section 39(1) of the *Parental Support and Responsibility Act 2008*;

“**authorised officer**” has the meaning given to that term in section 3 of the *Parental Support and Responsibility Act 2008*;

“**child**” means a person who is under 15 years of age;

“proceedings for or in respect of a responsible parenting order” has the meaning given to “proceedings for or in respect of an order” in section 26 of the *Parental Support and Responsibility Act 2008*.

”.

=====

Defined Terms

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
appointed person or body	44(2)
authorised officer	3, 44(2)
CEO	38(5), 39(7)
CEO (Child Protection)	3
CEO (Corrective Services)	3
CEO (Education).....	3
chief employee	39(7)
child	3, 44(2)
Court	3
decision	22
department	3
Department	40(4)
government agency	3
guidelines	10(8), 39(7)
income support.....	3
information sharing agency.....	3
interim responsible parenting order	3
Judge	22
lawyer	30(4)
Minister.....	12(2)
officer.....	3
official.....	12(2)
parent	3
party to the initial proceedings.....	22
proceedings for or in respect of a responsible parenting order	44(2)
proceedings for or in respect of an order	26
publish.....	38(5)
relevant information.....	3
representation.....	32(4)
responsible parenting agreement.....	3
responsible parenting order.....	3
school.....	3
service agency.....	10(8)